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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,852	12/14/2000	Axel Schamal	225/49355	5694
23911	7590	03/13/2006	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			REIS, TRAVIS M	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/674,852	<b>Applicant(s)</b> SCHAMAL, AXEL	
	<b>Examiner</b> Travis M. Reis	<b>Art Unit</b> 2859	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 8-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 & 6, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosken (U.S. Patent 4265002) in view of Poupitch (U.S. Patent 2650516).

Hosken discloses a device for magnetically fastening articles, comprising a post (29) for fitting into the hole (5) in the body parts (2, 4) for gripping them together (Figures 1-3), and an attachment element which is releasably connectable (25, 27) to the post (Figure 1), with the post fitted into the hole, rest on a surface of the body part (Figure 3) surrounding the hole, wherein the attachment element has a shell (10) made of nonmagnetic material (col. 3 lines 32-33) and a magnetic insert (30) arranged within the shell, wherein a lower edge of the shell bears substantially flush against a lower side of the insert (Figures 2 & 3). Furthermore, the placement of the device on an article, by virtue of its existence, determines the position of a hole.

Hosken does not disclose the post is a spike, the shell has an essentially hemispherical or partially spherical shape, or that the body parts are from a motor vehicle.

Poupitch discloses a dash liner clip (20) in which articles are secured to the floor or dash panels of the vehicle (col. 1 lines 10-13); wherein said dash liner clips have a partially spherical head (26) (Figures 1 & 2) and the inserted end (30) is pointed (Figure 1 & 3) forming a spike since Webster's dictionary defines a spike as "a long thick pointed piece of wood or metal". Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to shape the head of the device disclosed by Hosken in a partially spherical

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shape in order that the shell does not jut out from the body but is smooth in order to be more aerodynamic and to shape the post with a pointed end in order to be more easily inserted into the hole. Furthermore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to use the device disclosed by Hosken to fasten vehicle parts such as a dash panel or floor of a vehicle as taught by Poupitch since this is an alternative type of fastening means to keep any two articles connected together.

3. Claims 3 & 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosken & Poupitch as applied to claims 1 & 6 above, and further in view of Hall (U.S. Patent 2419134).

Hosken & Poupitch do not disclose the spike has an upper part with a screw thread which is adapted to pass through the insert and be screwed to the inside of the shell.

Hall discloses a locator (1) utilizable in forming metal articles with a shell section (6a) with interior screw threads (7) for accepting a threaded connector (61) to secure the shell to the connector (col. 2 line 22-24) (Figures 1 & 3). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the screw thread disclosed by Hall to the upper part of the spike and the interior of the shell disclosed by Hosken & Poupitch in order that the shell is securely held to the attachment element & spike.

4. Claims 5, 8-10 rejected under 35 U.S.C. 103(a) as being unpatentable over Hosken, Poupitch, & Hall as applied to claims 3 & 4 above, and further in view of Le (U.S. Patent 4789287).

Ham, Dehn, & Hall disclose all of the instant claimed invention as stated above in the rejection of claims 1, 3, 4, & 6, but do not disclose expressly a spike fastened to the attachment element in an asymmetrical manner with respect thereto.

Le discloses a through bolt (3) with an asymmetric head (7) to allow fastening in otherwise inaccessible locations (Figures 1-5)(Abstract). Therefore, it would have been obvious

to one with ordinary skill in the art at the time of the invention was made to make the attachment element taught by Ham, Dehn, & Hall asymmetrical as taught by Le, thereby receiving the spike in an asymmetrical manner in order that the device could provide fastening in otherwise inaccessible locations.

### ***Response to Arguments***


Applicant's arguments with respect to claims 1, 3-6, & 8-10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tang discloses a racking device (U.S. Patent 4244476).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis (571) 272-2249; normally reached on 8--5 M--F. If unreachable, contact the examiner's supervisor, Diego Gutierrez (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Travis M Reis  
Examiner  
Art Unit 2859



Diego Gutierrez  
Supervisory Patent Examiner  
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tmr  
March 6, 2006